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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *05 May 2008*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-3,5-8 and 10-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-3, 5-8 and 10-24* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

RESPONSE TO AMENDMENT

1.   As per the instant application 10/767,247; the examiner acknowledges the applicant's

submission of the amendment dated May 5, 2008. At this point, claims 1 and 10 have been

amended and claims 4 and 9 have been canceled. Claims 1-3, 5-8 and 10-24 are pending.

REJECTIONS NOT BASED ON PRIOR ART

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

3.   Claims 1-3, 5-8 and 10-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to reasonably convey to one skilled in the

relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. Claims 1 and 10 recite "such that at least some of the replication storage

volumes are located outside the respective failure boundary *for any of the types of storage*

failure"; the Examiner has not found support in the Specification for this limitation.

4.   Any claims not specifically addressed above are rejected for encompassing deficiencies

found in base claims upon which they depend.

REJECTIONS BASED ON PRIOR ART

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   **Claims 1-3, 5-8, 10-20 and 23-24** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Bridge (US 6,530,035) in view of Iwami et al. (US 2002/0112030) and Ohran

et al. (US 2002/0112134).

7.   As per **claims 1 and 10**, Bridge discloses "A method of controlling a storage system

having primary storage volumes and replication storage volumes which replication storage

volumes for improving reliability of the storage system," as [**"the invention relates to a method**

and system for managing storage systems containing multiple storage devices" (Column 1,

lines 9-11) and also that "to protect against the loss of information, data on the system can

be *mirrored* (i.e., duplicated and stored) on two or more separate storage locations"

(Column 1, lines 50-52). Bridge also explains that "if a disk drive fails, protected extents

can be rebuilt from that disk drive's mirror partners" (Column 14, lines 53-54) and that

"this reduces the meantime to repair the failure with a hot standby, since a higher I/O rate

can be used to reconstruct lost data" (Column 14, lines 56-58) wherein "a lower mean time

to repair reduces the probability of having two simultaneous failures" (Column 14, lines

61-62); therefore, providing higher reliability in a storage system]

"the method comprising: determining a plurality of failure boundaries in the storage system, each

failure boundary identifying a portion of the storage system that will be affected by a type of

storage failure, one of the plurality of failure boundaries;" **[With respect to this limitation, Bridge discloses an equivalent method wherein "each disk drive is associated with a failure group. Two disk drives are in different failure groups if they do not share a common failure condition that is projected to affect both disk drives at the same time" (Column 2, lines 42-46) as failure groups encompass different failure boundaries which are selected so that each failure boundary/group is affected by a different type of failure (*Applicant should note that as Bridge isolates failure groups such that different failure groups do not share a common failure condition, Bridge is creating failure boundaries/groups that will be affected by a different type of storage failure, as broadly claimed*). Bridge discloses "for mirroring, each disk drive is paired with one or more disk drives from other failure groups" (Column 2, 51-52) so that "two independent failures would be required to destroy both pieces of the data" (Column 4, lines 32-33); therefore, a mirror copy of a drive belongs in a different failure boundary as its mirror pair]**

being determined using at least one of error correction group and controller group information of the primary storage volumes and replication storage volumes to divide the storage volumes into failure groups of logical volumes; **["two disk drives on a common controller could be considered part of the same failure group for a high reliability mirrored data system" (Figure 6 and Column 15, lines 2-4) as including control group information for assigning/determining failure boundaries, and explains "when a piece of a logical volume is allocated on one of the disk drive's mirror partners" (Col. 2, lines 55-57)]**

using the plurality of determined failure boundaries to assign replication storage volumes, wherein a first type of content to be stored has replication storage volumes assigned across each

failure boundary, such that at least some of the replication storage volumes are located outside

the respective failure boundary for any of the types of storage failure <u>used to determine the</u>

<u>plurality of failure boundaries,</u> **[With respect to this limitation, Bridge discloses "each disk**

drive is associated with a failure group. Two disk drives are in different failure groups if

they do not share a common failure condition that is projected to affect both disk drives at

the same time" (Column 2, lines 42-46) wherein it is taught that "the logical volume may

actually span non-continuous space across a very large number of physical drives" (col. 5,

lines 58-62) which would comprise different failure boundaries or within a single disk drive

(col. 6, lines 21-25) as failure groups encompass different failure boundaries which are

selected so that each failure boundary/group is affected by a different type of failure].

Bridge does not disclose expressly the boundary being determined using error correction

group of the primary storage volumes and replication storage volumes nor using type of content

to be stored to assign replication storage volumes, wherein a second type of content is able to be

stored having replication storage volume within at least one failure boundary.

Iwami discloses the boundary being determined using error correction group of the

primary storage volumes and replication storage volumes to divide the storage volumes into

failure groups of logical volumes as **["the ECC configuration table 208 is searched for**

available resources from which a suitable disk may be created... it is determined whether a

logical disk was successfully created from the available resources of the ECC group

controlled by the ECC configuration table 208. If a logical disk was successfully created,

then in step 306, the new disk is assigned according to the request" (Page 3, Par. 0032;

Figure 3 and related text) and explains "logical disk definitions" in which "Each entry

comprises a logical disk ID 501, an Error Checking and Correcting (ECC) group ID 502, a

data volume 503, a data speed 504 and an indicators of whether the logical disk has been

assigned. An ECC group is comprised of physical disks" (Pages 3-4, Par. 0036-0037;

Figures 5-6 and related text)].

Ohran discloses using the plurality of determined failure boundaries and a type of content

to be stored to assign replication storage volumes, wherein a first type of content to be stored

has replication storage volumes assigned across each failure boundary, such that at least some

of the replication storage volumes are located outside the respective failure boundary for any of

the types of storage failure, and wherein a second type of content is able to be stored having

replication storage volume within at least one failure boundary as ["**one of the simplest**

approaches to creating a backup copy of a large volume of computer data is to copy the

data from a mass storage system to an archival device, such as one or more magnetic

tapes" (Page 1, Par. 0008) and explains "data blocks that are to be overwritten after a

point in time in which a mirrored copy of the data has been created are stored in a

preservation memory" (Page 2, Par. 0026) wherein "preservation memory 14 is a physical

or logical device associated with computer 10 in which data blocks that are to be

overwritten in mass storage device are stored. Preservation memory 14 can be a volatile

device, such as a random access memory (RAM) or any other device that can store data

blocks that are to overwritten in mass storage device 12. Although preservation memory

14 is illustrated as being a separate device in Fig. 1, the preservation memory can be a

partition or another portion of mass storage device 12" (Page 3, Par. 0029) wherein "as

the volume of data stored in the preservation memory approaches the capacity of

preservation memory, a full mirror or backup operation is performed on the mass storage device" (Page 4, Par. 0047) *wherein Ohran explains "in response to a data corruption event, the data blocks stored in the preservation memory are used to incrementally restore the data in the mass storage device in reverse chronological order to at a point at which valid, non-corrupted data exists" (Par. 0041). Therefore, Applicant should note that as Ohran stores data to be overwritten/incremental/differential updates in preservation memory, this comprises storing data content of a first type within a failure boundary as multiple updates are stored within preservation memory which comprises a failure boundary. As Ohran stores full data backups to mass storage device, Ohran is storing full backup data/data of a second type across failure boundaries, as the mass storage device comprises a different failure boundary as the preservation memory.* **Ohran further defines mass storage device as a writeable nonvolatile mass storage device which can be a hard drive or any other storage volume used to store data (pars. 0029)** *(which could be any well known mass storage device comprising multiple disks, such as the disk system 102 taught by Bridge)* **wherein Applicant should note that as full backup data is stored in mass storage device, which could comprise different disks, full backup data would be stored across failure boundaries, since different disks would comprise different failure boundaries, (Refer to Bridge above)].**

Bridge (US 6,530,035), Iwami et al. (US 2002/0112030) and Ohran et al. (US 2002/0112134) are analogous art because they are from the same field of endeavor of computer memory access and control.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method of controlling a storage system having primary storage volumes and

replication storage volumes in which a boundary of failure used to assign replication storage

volumes to assure that at least some of the replication storage volumes are outside the failure

boundary as taught by Bridge, assign/create logical volumes using error correction groups as

taught by Iwami, use a multiple disk storage system as taught by Bridge as a mass storage device

taught by Ohran, and furhter use the determined failure boundary and a type of content to be

stored to assign replication storage volumes, a first type of content to be stored having replication

storage volumes assigned across the failure boundary, and a second type of content to be stored

having replication storage volume within the failure boundary as taught by Ohran.

The motivation for doing so would have been because Iwami discloses that using error

correction group to divide storage volumes into failure groups of logical volumes **[to "assign**

disk in storage that have sufficient data access speed to accommodate a communication

data speed of network resources" (Page 7, Par. 0064) wherein "storage resources are

matched to communications capabilities to provide for improved storage system

throughput capability" (Page 2, Par. 0012) thereby creating logical groups/volumes which

differ from other logical volumes according to different characteristics such as ECC group

characteristics]. Ohran discloses using the determined failure boundary and a type of content to

be stored to assign replication storage volumes, a first type of content to be stored having

replication storage volumes assigned across the failure boundary, and a second type of content to

be stored having replication storage volume within the failure boundary is done so that **["data**

can be restored to a state that is newer than that associated with a full mirrored or

archived copy of the data. Thus, full mirror or archiving operation on a volume or data can

be less frequent without the risk of losing changes to the volume of data that have occurred

since the last full mirror or archiving operation" (Page 1, Par. 0012) and expresses that any

type of storage volume used to store data may be used as mass storage device (pars. 0029)].

Therefore, it would have been obvious to combine Iwami et al. (US 2002/0112030) with

Bridge (US 6,530,035) and Ohran et al. (US 2002/0112134) for the benefit of creating a method

of controlling a storage system having primary storage volumes and replication storage volumes

to obtain the invention as specified in claims 1 and 10.

8.   As per **claim 2**, the combination of Bridge, Iwami and Ohran discloses "A method as in

claim 1," **[See rejection to claim 1 above]** "wherein the failure boundary is determined by

software managing the storage system" **[With respect to this limitation, Bridge discloses that**

"all named drives in a failure group share some common disk drive failure criteria, which

is any failure mode or condition which is projected to cause the related disk drives to fail at

the same time period" (Column 13, lines 35-38) and explains that "hard-wired circuitry

may be used in place of or in combination with software instructions to implement the

invention" (Column 26, lines 36-40)].

9.   As per **claim 3**, the combination of Bridge, Iwami and Ohran discloses "A method as in

claim 2" **[See rejection to claim 2 above]** "wherein a logical address of locations in the storage

system is used to determine the failure boundary" **[With respect to this limitation, Bridge**

discloses that "the logical volume manager configures a pool of disk drives into logical

volumes (also called logical disks) so that applications and users interface with logical

volumes instead of directly accessing physical disk drives" (Column 1, lines 24-27)].

10.   As per **claims 5-6 and 11-12**, the combination of Bridge, Iwami and Ohran discloses "A

method as in claims 4 and 10" **[See rejection to claim 4 above and rejection to claim 10**

bellow] "wherein information regarding the failure boundaries is stored as a table in the server"

and "the server is used to manage the storage system" **[With respect to this limitation, Bridge**

discloses that "a separate list is maintained for each disk drive with entries that describe

each allocation unit on that disk drive. The example of FIG. 4 illustrates one embodiment

of this list which is referred to as an *allocation table***" (Figure 4 and Column 10, lines 13-17)**

wherein "if a disk drive fails, the surviving allocation tables can be used to reconstruct any

pointer extent on the failed device containing entries for allocation units on surviving

devices" (Column 10, lines 41-44) and also explains that when a disk drive fails,

"reconstruction can be accomplished by looking at the mirror partner's allocation tables.

Thus no other disk drives need to be examined" (Column 14, lines 58-61) as storing failure

boundary information for both, primary and secondary (or mirror) volumes of data on

each disk; therefore, each disk functions as a server for other disks in the system as each

disk stores data pertaining to other disks. Bridge further discloses that "a server might

transmit a requested code for an application program through Internet, ISP, local network

and communication interface. In accordance with the invention, one such downloaded

application manages storage systems that contain multiple data storage devices" (Figure

19 and Column 27, lines 43-49). Furthermore, Iwami discloses "logical disk configuration

table" (Figure 5 and related text) and other resource allocation tables which reside in

"memory 112" (Figure 2 and related text)].

11.   As per **claims 7 and 13**, the combination of Bridge, Iwami and Ohran discloses "A

method/system as in claims 5 and 11" **[See rejection to claim 5 above and rejection to claim**

11 bellow] "wherein information regarding the failure boundaries also includes information

about reliability of the primary storage volumes and the replication storage volumes" **[Bridge discloses this limitation as "two disk drives on a common controller could be considered part of the same failure group for a high-reliability mirrored data system, but may be considered in two separate failure groups for a system having lower demand-levels for reliability" (Column 15, lines 2-6) as taking reliability information for each failure group into account]**.

12.   As per **claim 8**, the combination of Bridge, Iwami and Ohran discloses "A method as in claim 1" **[See rejection to claim 1 above]** "wherein the boundary of the failure is used to assign storage volumes as replication storage volumes for a particular operation of the storage system" **[Bridge discloses this limitation as "for mirroring, each disk drive is paired with one or more disk drives from other failure groups" (Column 2, 51-52) so that "two independent failures would be required to destroy both pieces of the data" (Column 4, lines 32-33); therefore, a mirror copy of a drive belongs in a different failure boundary as its mirror pair and failure boundary information is used to assign a mirror pair for a data volume]**.

13.   As per **claim 14**, the combination of Bridge, Iwami and Ohran discloses "A storage system as in claim 11" **[See rejection to claim 11 above]** "wherein information regarding the failure boundaries also includes information about performance of the primary and replication storage volumes" **[With respect to this limitation, Bridge discloses that "the size of allocation units is selected for desired performance characteristics. One factor to consider in this selection is the I/O performance of the disk drive(s) containing the allocation units" (Column 7, lines 16-19) and also explains that "pointer extents can be in a different disk group from data extents. This is useful for cases where one disk group has different**

performance characteristics than another" (Column 9, lines 48-50) as taking performance

information for each failure group into account].

14.   As per **claims 15 and 18**, the combination of Bridge, Iwami and Ohran discloses a

method as in claims 1 and 10 **[See rejection to claims 1 and 10 above]** wherein the boundary of

a failure is determined based on logical addresses **[Iwami discloses this limitation as "logical**

disk configuration table" comprising entries of one or more logical disk definitions (Figure

5 and related text)].

15.   As per **claims 16 and 19**, the combination of Bridge, Iwami and Ohran discloses a

method as in claims 15 and 18 wherein the logical addresses correspond to volume numbers or

error correction groups **[Iwami discloses this limitation as "logical disk definitions" in which**

"each entry comprises a logical disk ID 501, an Error Checking and Correcting (ECC)

group ID 502, a data volume 503" (Figure 5 and related text)].

16.   As per **claims 17 and 20** the combination of Bridge, Iwami and Ohran discloses "A

method as in claim 1" **[See rejection to claims 1 and 10 above]** "further comprising:

performing a replication process between the primary replication volumes and secondary storage

volumes, the replication process utilizing a daily or hybrid backup implementation" as **[data is**

stored to preservation memory as changes are made after a full backup operation (Page 2,

Par. 0026) and explains having data that changes frequently, for example, on a daily basis

(Page 1, Pars. 0005 and 0010)].

17.   As per **claims 23 and 24**, the combination of Bridge, Iwami and Ohran discloses a

method/storage system as in claims 1 and 10 wherein the first type of content to be stored is a

full backup of data and the second type of content to be stored is a differential backup of data as

["data blocks that are to be overwritten after a point in time in which a mirrored copy of

the data has been created are stored in a preservation memory" (Page 2, Par. 0026)

wherein "preservation memory 14 is a physical or logical device associated with computer

10 in which data blocks that are to be overwritten in mass storage device are stored.

Preservation memory 14 can be a volatile device, such as a random access memory (RAM)

or any other device that can store data blocks that are to overwritten in mass storage

device 12. Although preservation memory 14 is illustrated as being a separate device in Fig.

1, the preservation memory can be a partition or another portion of mass storage device

12" (Page 3, Par. 0029) wherein "as the volume of data stored in the preservation memory

approaches the capacity of preservation memory, a full mirror or backup operation is

performed on the mass storage device" (Page 4, Par. 0047)].

18.   **Claims 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridge

(US 6,530,035) in view of Iwami et al. (US 2002/0112030) and Ohran et al. (US 2002/0112134);

and supported by Mehta et al. (US 2004/0250042) (*used herein as evidentiary reference*).

19.   As per **claims 21 and 22**, the combination of Bridge and Iwami discloses the

method/system as in claims 1 and 10 **[See rejection to claims 1 and 10 above]** but does not

disclose expressly "the primary storage volumes and replication storage volumes are horizontally

or vertically addressed."

        At the time of the invention it would have been obvious to a person of ordinary skill in

the art to use horizontal, vertical, or another form of addressing well known in the field of

endeavor as Applicant's own disclosure explains that ["**the server 106 uses address to indicate

horizontal, vertical, or some other form" (Paragraph 0043) and also explains that "in the**

case of vertical addressing the impact of replication is the same as with example of

horizontal addressing; the only differences are the physical arrangement of the storage

volumes" (Paragraph 0033)]; for example, refer to Mehta et al. (US 2004/0250042) (par. 0068)

wherein it is illustrated that horizontal and vertical accessing are well known in the art at the time

of the invention.

Therefore, it would have been obvious to use any addressing form for the benefit of

creating a method of controlling storage system replication to obtain the invention as specified in

claim 21 and 22.

ACKNOWLEDGMENT OF ISSUES RAISED BY THE APPLICANT

Response to Amendment

20.   Applicant's arguments filed on May 5, 2008 have been fully considered but they are not

persuasive.

21.   As required by **M.P.E.P. § 707.07(f)**, a response to these arguments appears below.

ARGUMENTS CONCERNING PRIOR ART REJECTIONS

22.   Claims must be given the broadest reasonable interpretation during examination and

limitations appearing in the specification but not recited in the claim are not read into the claim

(See M.P.E.P. 2111 [R-1]).

FIRST POINT OF ARGUMENT

23.   With respect to Applicant's remarks regarding the 35 USC 112, first paragraph rejection

of claims 1-3, 5-8 and 10-24; the Examiner would like to point out that these remarks have been

fully considered but are not deemed persuasive.

The Examiner agrees with Applicant's remarks showing support for the limitation "that at

least some of the replication storage volumes are located outside the respective failure

boundary;" however, the Examiner has not been able to find support for storing replication

storage volumes outside the respective failure boundary for "*any of the types of storage failure*,"

since this would mean that replication storage volumes would be stored outside the boundary of

"any of the types of storage failure", or in a boundary that has no failures and this is not the same

as storing data across different failure boundaries so that at least some of the data is stored (for

example, within two failure boundaries) at the same time, which is supported by Applicant's

Specification. Further, it is the Examiner's position that data would always be stored in areas

exposed to some sort of failure. Accordingly, the 35 USC 112, first paragraph rejection of claims

1-3, 5-8 and 10-24 has been maintained.

SECOND POINT OF ARGUMENT

24.   In response to Applicant's remark that the combination of Bridge, Iwami and Ohran does

not disclose determining a plurality of failure boundaries for different types of failure and

assigning storage volumes within and across boundaries based upon types of data being stored

such that full backup data is stored across failure boundaries and differential data is stored within

the same failure boundaries; this remark has been fully considered but it is not persuasive. **[See**

claim rejections above].

25.   Bridge discloses ["**each disk drive is associated with a failure group. Two disk drives**

are in different failure groups if they do not share a common failure condition that is

projected to affect both disk drives at the same time" (Column 2, lines 42-46) as failure

groups encompass different failure boundaries which are selected so that each failure

boundary/group is affected by a different type of failure (*Applicant should note that as*

Bridge isolates failure groups such that different failure groups do not share a common

failure condition, Bridge is creating failure boundaries/groups that will be affected by a

different type of storage failure, as broadly claimed). Bridge discloses "**for mirroring, each**

disk drive is paired with one or more disk drives from other failure groups" (Column 2, 51-

52) so that "**two independent failures would be required to destroy both pieces of the data**"

(Column 4, lines 32-33); therefore, a mirror copy of a drive belongs in a different failure

boundary as its mirror pair wherein failure groups encompass different failure boundaries

which are selected so that each failure boundary/group is affected by a different type of

failure] and Ohran discloses ["**one of the simplest approaches to creating a backup copy of a**

large volume of computer data is to copy the data from a mass storage system to an

archival device, such as one or more magnetic tapes" (Page 1, Par. 0008) and explains

"**data blocks that are to be overwritten after a point in time in which a mirrored copy of**

the data has been created are stored in a preservation memory" (Page 2, Par. 0026)

wherein "**preservation memory 14 is a physical or logical device associated with computer**

10 in which data blocks that are to be overwritten in mass storage device are stored.

Preservation memory 14 can be a volatile device, such as a random access memory (RAM)

or any other device that can store data blocks that are to overwritten in mass storage

device 12. Although preservation memory 14 is illustrated as being a separate device in Fig.

1, the preservation memory can be a partition or another portion of mass storage device

12" (Page 3, Par. 0029) wherein "as the volume of data stored in the preservation memory

approaches the capacity of preservation memory, a full mirror or backup operation is

performed on the mass storage device" (Page 4, Par. 0047) *wherein Ohran explains "in*

response to a data corruption event, the data blocks stored in the preservation memory are

used to incrementally restore the data in the mass storage device in reverse chronological

order to at a point at which valid, non-corrupted data exists" (Par. 0041). Therefore, Applicant

should note that as Ohran stores data to be overwritten/incremental/differential updates in

preservation memory, this comprises storing data content of a first type within a failure

boundary as multiple updates are stored within preservation memory which comprises a

failure boundary. As Ohran stores full data backups to mass storage device, Ohran is storing

full backup data/data of a second type across failure boundaries, as the mass storage device

comprises a different failure boundary as the preservation memory, **according to a first**

interpretation given to the claims].

26.   More specifically, Applicant argues that the combination of Bridge, Iwami and Ohran

does not disclose storing a first type of content across failure boundaries so that at least some of

the replication volumes are located outside the respective failure boundary as in Ohran, full

backup data is stored within a single boundary; in response, this argument has been fully

considered but it's not deemed persuasive as he Examiner would like to point out that **[Ohran**

defines mass storage device as a writeable nonvolatile mass storage device which can be a

hard drive or any other storage volume used to store data (pars. 0029) (*which could be any well known mass storage device comprising multiple disks, such as the disk system 102 taught by Bridge*) wherein Applicant should note that as full backup data is stored in mass storage device, which could comprise different disks, full backup data would be stored across failure boundaries, since different disks would comprise different failure boundaries, (Refer to Bridge above)] wherein it would have been obvious to one of ordinary skill in the art to use a storage system such as the storage taught by Bridge as the mass storage device taught by Ohran since Ohran discloses that any type of storage volume may used to store data may be used as mass storage device **[(par. 0029)]**; therefore, the combination of Bridge, Iwami and Ohran discloses storing a first type of content across failure boundaries so that at least some of the replication volumes are located outside the respective failure boundary.

THIRD POINT OF ARGUMENT

27.   In response to Applicant's remark with respect to claims 21-22 that it is improper to rely on the Applicant's own Specification for teaching elements of these claims; the Examiner would like to respectfully point out that the Examiner has not relied on Applicant's Specification for teaching claimed elements, but instead has relied on official notice that these elements are well known in the art at the time of the invention wherein Applicant's Specification has been relied on for the fact that Applicant's invention may use any type of addressing; further, the Examiner has provided the reference to Mehta as evidence that horizontal and vertical addressing are well known at the time of the invention [See above]; wherein, one of ordinary skill in the art would have bee motivated to use any addressing method that is well-known in the art, at least for the

benefit of improving access to memory according to the memory pattern used (See Mehta, Par.
0068).

28.   All arguments by the applicant are believed to be covered in the body of the office action
and thus, this action constitutes a complete response to the issues raised in the remarks dated
May 5, 2008.

CONCLUSION

29.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time
policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE
MONTHS from the mailing date of this action. In the event a first reply is filed within TWO
MONTHS of the mailing date of this final action and the advisory action is not mailed until after
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,
however, will the statutory period for reply expire later than SIX MONTHS from the mailing
date of this final action.

STATUS OF CLAIMS IN THE APPLICATION

30.   The following is a summary of the treatment and status of all claims in the application as
recommended by **M.P.E.P. § 707.07(i)**

        a(1) **CLAIMS REJECTED IN THE APPLICATION**

31.   Per the instant office action, **claims 1-3, 5-8 and 10-24** have received an action on the

merits and are subject to a final rejection.

a(2) CLAIMS NO LONGER UNDER CONSIDERATION

32.   Claims 4 and 9 have been canceled as of amendment dated May 5, 2008.

DIRECTION OF ALL FUTURE REMARKS

33.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Yaima Campos whose telephone number is (571) 272-1232. The

examiner can normally be reached on Monday to Friday 8:30 AM to 5:00 PM.

34.   If attempts to reach the above noted Examiner by telephone are unsuccessful, the

Examiner's supervisor, Mr. Sanjiv Shah, can be reached at the following telephone number: Area

Code (571) 272-4098.

35.   The fax phone number for the organization where this application or proceeding is

assigned is 571-273-8300. Information regarding the status of an application may be obtained

from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more

information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions

on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free).

August 5, 2008   /Yaima Campos/

                                                           Examiner, Art Unit 2185

/Sanjiv Shah/

Supervisory Patent Examiner, Art Unit 2185